

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK x

MATTHEW JOHN MATABRANO,

Plaintiff,

- vs -

SUPPLEMENTAL
COMPLAINT

Purs. Rule 15(d) F.R.C.P.

OFFICE OF MENTAL HEALTH; REGINA

MILES, MD; ROBERT CARR; ANN

9:05 CV 1459 (DNH/RET)

ANDZEL; CHRISTINE; JOHN DOE -

TRIAL BY JURY
DEMANDED

n/k/a ANTHONY DEUETO; JOHN DINARDO;

PATRICK; CINDY LAW.

Pro-se

Defendants. x

PLEASE TAKE NOTICE that, this is a supplemental pleading to the Amended Complaint filed in this Court on or about December 2, 2006. Pursuant to Rule 15(d) F.R.C.P.

PRELIMINARY STATEMENT

This is a civil rights action filed by Matthew John Matabrano, a mentally ill and physically disabled prisoner. For damages, injunctive and declaratory relief under 42 U.S.C. § 12101 et. seq., as amended; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and 42 U.S.C. § 1983. alleging discrimination against the plaintiff's physical and mental disability; retaliation against the plaintiff for exercising his rights under the American's With Disabilities

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Act; For the denial of reasonable accommodations for a bi-lateral hearing impairment; For defendant's using the confiscation of his auxiliary aids as a retaliatory punishment; For denial of adequate mental health care; For denial of medical care for a serious medical need; For the willful, causal, unjustified violation of the plaintiff's right to medical privacy and confidentiality. At all times mentioned the defendant's acted in bad faith, acted with malice and were deliberately indifferent. Plaintiff further alleges as follows:

JURISDICTION AND VENUE

This is a civil rights action seeking relief and damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. Sect 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sect 794 and 42 U.S.C. Sect. 1983. The court has jurisdiction over this action pursuant to 28 U.S.C. Sect 1331, 1343 (a) (1) (2) (3) and 2201. The court has further jurisdiction of plaintiff's state tort actions pursuant to 28 U.S.C. Sect. 1367 (a).

Venue is proper in this District pursuant to 28 U.S.C. Sect 1391 (b) (2) due to the majority of the events giving rise to the causes of action herein occurred at the Central New York Psychiatric Center in the Town of Marcy, County of Oneida, in the State of New York located in the territorial region of the U.S. District Court for the Northern District of New York.

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155) On or about November 23, 2005 plaintiff For the third consecutive day requested to speak with Dr. Regina Miles, md; Mr. Robert Carr; MS. Cindy Law, N.P. and; Mr. Jim Burton, Unit Manager.

156) Plaintiff was never seen.

157) On or about November 23, 2005 plaintiff Submitted a hand written complaint alleging discrimination due to his bi lateral hearing impairment; Harrassment; Denial of Reasonable Accommodations and that plaintiff's hearing aids were unlawfully withheld from him for five days. Complaint sent to U.S.

Department of Health and Human Services - Office of Civil Rights 26 Federal Plaza Rm. 3312 N.Y. N.Y. 10278 ATTN: Michael Carter, Regional Manager.

158) On or about November 30, 2005, Dr. Regina Miles discharged plaintiff to the care, custody, and control of N.Y.S. D.O.C.S. to be returned to "Wende".

159) Plaintiff while in transport to "Wende" started becoming self abusive by banging his head against the metal grate covering the window; trying to choke himself by tying the seat belt strap around his

neck and i broke of a piece of plastic on the back of the van seat to cut his wrist.

160) Plaintiff was returned to C.N.Y.P.C. and held.

161) On or about December 2, 2005 Dr. Regina Miles, md again discharged plaintiff to the care custody and control of the N.Y.S. D.o.c.s. to be returned to "Wende."

162) Dr. Miles, md never spoke with plaintiff during the period of November 30, 2005 through December 2, 2005.

163) Upon returning to "Wende" on December 2, 2005 plaintiff met with Mr. David Privett Mental Health Unit Chief.

164) Plaintiff was held in the Mental Health Unit - Observation Cell area.

165) Plaintiff was not allowed his hearing aids.

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166) Plaintiff was placed in No. 6 Cell, which has plexi glass covering the entire front and back of the Observation Cell.

167) Rendering it virtually impossible for plaintiff to hear anything outside of the Cell.

168) On or about December 5, 2005 plaintiff was interviewed by Mr. Steve Jenks, Mr. Pat Warren, and Dr. Goreman, md.

169) It was decided that plaintiff was to be discharged to N.Y.S. D.O.C.S. and to be housed in the Special Housing Unit.

170) Plaintiff was continuously held in the Mental Health Unit - Observation Cell until on or about December 12, 2005 due to the Unavailability of a Cell in the Special Housing Unit, at Wende Correctional Facility.

171) Despite being mentally cleared by the Office of Mental Health, plaintiff was denied use of his hearing aids, use of reading materials, writing materials, and any out of Cell exercise.

172) Plaintiff asserts that his confinement in the Mental health unit after December 5, 2005, until December 12, 2005 was cruel and unusual and not an expected part of prison life, when plaintiff was only being warehoused and not in the Mental Health Unit for any security or medical need.

173) Plaintiff was further denied eating utensils, and use of hot water in his cell while confined in the Mental Health Unit from December 5, 2005 until December 12, 2005.

174) On or about December 12, 2005 plaintiff was transferred from the Mental Health Unit and housed in the Special Housing Unit G-37-005 at "Wende".

175) On or about December 15, 2005 plaintiff's hearing aids were returned to him in the Special Housing Unit by Mr. Steve Jenks, an employee of the N.Y.S. Office of Mental Health (hereinafter "O.M.H.")

176) Plaintiff requested to Mr. Jenks that he be given the batteries and hearing aid cases as well.

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177) Mr. Jenks delivered these items instead to a medical nurse at the "Wende" Regional Medical Unit for their decision whether or not to issue them to the plaintiff.

178) On or about December 23, 2005 plaintiff wrote to Ms. Susan Post, Deputy Superintendent Health Services at "Wende" in regard to receiving the hearing aid cases and batteries.

179) Plaintiff never received an acknowledgement or response.

180) On or about December 27, 2005 plaintiff wrote directly to Health Services, Regional Medical Unit at "Wende" requesting replacement hearing aid batteries, and that his hearing aid cases be returned.

181) No response was received.

182) On or about December 29, 2005 plaintiff gave to Nurse Judy from the Regional Medical Unit his dead hearing aid batteries requesting replacement.

183) On or about December 30, 2005 plaintiff received a letter from the U.S. Department of Health

and Human Services - Office of Civil Rights regarding a letter of Complaint Filed on or about November 23, 2005. (See pp No. 157) (Hereinafter "U.S. DHHS")

184) The "U.S. DHHS" advised plaintiff that his Complaint was being forwarded to the U.S. Department of Justice (hereinafter "DOJ") for investigation of his discrimination and harassment allegations while at "C.N.Y.P.C."

185) On or about January 1, 2006 plaintiff wrote the Nurse Administrator at "Wende" complaining about his inability to obtain replacement hearing aid batteries and the cases.

186) On or about January 3, 2006 plaintiff filed a grievance complaint (WDE-24125-06) complaining about the inability to obtain replacement hearing aid batteries; hearing aid cases and; the denial of "omn" to conduct private interviews, instead of "cell side" interviews in the presence of hearing or other prisoners.

187) On or about Wednesday, January 4, 2006 plaintiff received replacement hearing aid batteries from Nurse Judy during Medical doctor rounds in the

Special Housing Unit.

188) Until receiving replacement batteries, plaintiff was without hearing batteries for approximately twenty-three (23) days. Causing plaintiff suffering.

189) On or about January 10, 2006 plaintiff wrote a letter of complaint to Ms. Shanetta Brown Cutlar, Chief - Special Litigation Section Civil Rights Division U.S. DOJ Patrick Henry Building Rm 5114 601 D. Street, N.W. Washington, DC 20004.

190) Plaintiff complained of the conditions of the Mental Health Unit; the continuing difficulty in obtaining reasonable accommodations at Wende; and the confidentiality violations of "OMH" staff at "Wende".

191) On or about January 10, 2006 plaintiff wrote to Ms. Ann Andzel, Corrections Counselor at "Wende". Requesting reasonable accommodations while in the Special Housing Unit. ie, amplified head set.

192) On or about January 12, 2006 plaintiff requested to Dr. Shane Hutton, PhD to have his "omh" interview in private to maintain confidentiality.

193) Plaintiff's request was denied.

194) On or about January 17, 2006 plaintiff received the response of the Inmate Grievance Resolution Committee concerning the grievance filed on or about January 3, 2006. (No. WDE-24125-06) Allegations denied. (pp No. 186)

195) Plaintiff appealed to the Superintendent.

196) On or about January 17, 2006 plaintiff wrote to Director, Health Services "N.Y.S. D.O.C.S." complaining of not being able to obtain timely reasonable accommodations from Health Services - Regional Medical Unit at "Wende".

197) No response was ever received.

198) On or about January 19, 2006 in accordance with "N.Y.S. D.O.C.S." Directive No. 2612 entitled 'Inmates with Sensorial Disabilities' plaintiff appealed the tacit denial of his request for reasonable accommodations in the Special Housing Unit to the Facility Superintendent. (pp No. 191)

199) On or about January 20, 2006 plaintiff wrote a

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seven (7) page letter of complaint to Mr. Robert Raymond, Acting American's with Disabilities Act Coordinator for "N.Y.S. D.O.C.S." with regard to plaintiff's inability to obtain hearing aid batteries; Reasonable accommodations in the Special Housing Unit; and the continuous violations of confidentiality by "O.M.H." staff, for conducting interviews out in the open.

200) On or about January 20, 2006 plaintiff received a memorandum from Ms. Ann Andzel responding to his request for reasonable accommodations.

201) Ms. Andzel granted his request. Providing a T-Coil induction loop and a Shake awake clock/alarm.

202) Ms. Andzel further advised plaintiff to write to the Nurse Administrator to request a "soft pouch" to store in his hearing aids in lieu of the hard plastic cases.

203) On or about February 2, 2006 plaintiff met with Dr. Shane Hutton, PhD and Christopher M. Deacon, M.D. From "O.M.H." Mental Health Unit, in the hearing room.

204) Plaintiff advised Dr. Hutton, and Dr. Deacon that he was feeling very depressed, being self abusive by scratching his wrists and forearms and stopped taking

his psychotropic medications.

205) On or about February 3, 2006 plaintiff received the Superintendent's decision with respect to a grievance filed on or about January 3, 2006 and appealed on or about January 17, 2006. (pp. 186 & 194).

206) The Superintendent found that

"The Investigation reveals that you requested and received hearing aid batteries on 1/7/06. There is no evidence that you requested hearing aid batteries prior to 1/7/06.

Issues regarding the Office of Mental Health are considered non-grievable and any concerns regarding this agency must be addressed to the Wende C.F. Mental Health Unit Chief."

207) Plaintiff appealed to Central Office Review Committee (hereinafter "C.O.R.C.") with the following statement:

"Batteries were issued on Wednesday January 4, 2006 during the medical doctor rounds. The hearing aid cases were lost by NYS DOCS staff and have agreed to be replaced see inmate property claim # 430-0128-05. O.M.H. has been designated the agency to give

Mental health Services to inmates. Grievant is in the care, custody, and control of D.O.C.S. as such D.O.C.S. has a responsibility to ensure that grievant receive adequate mental health care. Mental health staff that violate grievant's right to confidentiality and to adequate care should be addressed by the owning Facility administration. Especially in grievant's case, where he recently returned from a 90 day psychiatric commitment to C.N.Y.P.C.. Grievant's inability to converse with mental health practioners in a safe and secure environment is denying constitutional right to mental health care.

208) On or about February 3, 2006 plaintiff received approval from the Deputy Superintendent Administration at "Wende" for the replacement of his lost hearing aid cases. [Inmate Property claim No. 430-0128-05]

209) On or about February 6, 2006 plaintiff was transferred to the Mental Health Unit - Observation Cell area because of suicidal ideations.

210) Plaintiff's hearing aids were taken away by "O.M.H." nursing staff in the Mental Health Unit at "Wende".

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211) Plaintiff remained in the Mental Health Unit Observation cell (MH-08-002) until February 22, 2006.

212) While plaintiff was confined in the mental health Unit he was deprived of his bi-lateral hearing aids; clothing; reading/writing materials; eating utensils; out of cell exercise; and hot water in the cell.

213) On or about February 22, 2006 on an emergency admission pursuant to Section 402 of the Corrections Law plaintiff was committed to the care, custody, control of "D.M.H." and hospitalized at "C.N.V.P.C."

214) Plaintiff was transported from "Wende" without his bi-lateral hearing aids. Despite requesting them prior to leaving.

215) Upon arriving at C.N.V.P.C., plaintiff advised "S.H.T.A." Robert Beers, Jim Jones, Norman Barnes and Nurse "Patricia" that he was sent without his hearing aids.

216) Plaintiff was admitted to Ward 402.

217) On or about February 22, 2006 at approximately 1:40 p.m. plaintiff was interviewed by MS. Cheryl Myers,

Who was accompanied by "S.H.T.A." Stan.

218) During the interview plaintiff advised Ms. Myers that he had been transferred to C.N.Y.P.C. without his hearing aids, which were still at the Mental Health Satellite Unit at "Wende C.F."

219) Ms. Myers advised plaintiff to discuss this issue with his assigned Social Worker.

220) On or about February 23, 2006 at approximately 10:00 a.m., in the "B" side of the "C.N.Y.P.C." treatment mall, plaintiff met with Ms. Susan Brennan, Social Worker who was accompanied by "S.H.T.A." Daniel Brown.

221) During this meeting, plaintiff advised Ms. Susan Brennan that he was bi-laterally hearing impaired. And that he arrived at C.N.Y.P.C. without his aids.

222) Ms. Brennan advised plaintiff that when she called the Mental Health Unit at "Wende" they did not know where his hearing aids were.

223) Plaintiff advised Ms. Brennan that he needed his hearing aids in order to hear the happenings in his surroundings, such as in common use area's like the Ward's day room.

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224) On or about February 27, 2006 in the Conference room on Ward 402 at "C.N.Y.P.C." plaintiff met with the treatment team.

225) Plaintiff advised the treatment team that he was transferred to "C.N.Y.P.C." From "Wende" without his bi-lateral hearing aids.

226) Present at the team meeting was MS. Cheryl Myers; Susan Brennan; Dr. Norman Kelly, PhD; MS. Ashley Williams; Mr. Steve Montrose - Unit Manager and Dr. Sarah Nelson, M.D.

227) The team as represented by Mr. Steve Montrose told plaintiff that there were some difficulties in locating the hearing aids but they would continue to follow-up.

228) On or about February 27, 2006 plaintiff received a letter from Mr. Robert Raymond dated February 2006 Forwarded from "Wende".

229) Mr. Raymond was responding to plaintiff's letter of Complaint of January 20, 2006. (pp. 199) He advised plaintiff that he was satisfied with the "investigation conducted at the facility level," and sees no evidence of his rights being violated.

230) On or about February 28, 2006 plaintiff wrote to Mr. Robert Raymond, Acting ADA Coordinator For "DOCS" advising him that plaintiff was again transferred to "C.N.Y.P.C." without his hearing aids; and that there was no investigation conducted at the Facility level because the Facility Superintendent stated that "OMH is non-grievable through the inmate grievance program". (pp 205 & 206)

231) On or about March 1, 2006 plaintiff was given his two hearing aids by "S.H.T.A." Daniel Brown. The hearing aids had arrived with the patient mail delivery.

232) Prior to receiving his hearing aids plaintiff was forced to exist in a world of silence for seven (7) days because he was unable to participate in leisure activities, such as television watching with other patients; group therapy where video cassettes were used as an instruction tool because no - close caption was available, plaintiff ability to hear and function was significantly frustrated.

233) Based upon information and belief, defendant Office of Mental Health ("OMH") has adopted a policy of indifference to the needs of sensorially disabled patients in their care. Repeatedly, plaintiff has been denied use of his hearing aids, reasonable accommodations,

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Forced to wait three - four days at a time for replacement batteries and because of such denials plaintiff has been discriminated against.

234) On or about March 2, 2006 plaintiff signed up to see the medical specialist to complain of severe tooth pain in the back and right side of his mouth since February 28, 2006.

235) Plaintiff was seen by the medical specialist who's opinion was that plaintiff had an infected and possibly impacted wisdom tooth on the right side. Plaintiff was prescribed antibiotics for the infection and 975 mg of Tylenol for pain management.

236) A dental consult for plaintiff to be seen by the Dental Clinic at St. Lukes - Faxton Hospital in Utica, N.Y. was submitted.

237) C.N.Y.P.C. does not have a dentist on the hospital grounds and relies on the dental health services of an area hospital.

238) On or about March 2, 2006, plaintiff wrote a 3 page letter to Anthony Devito, Associate Director Quality Management c/o Risk Management at "C.N.Y.P.C."

239) In his letter plaintiff requested the reasonable accommodations of close caption for the dayroom television; close caption for the television in the treatment mall when a video cassette was being used; a phone amplifier so that he could use the patient phone without having to be straining to hear and asking for the conversation to be repeated.

240) Other non-sensorially disabled patients/prisoners at C.N.Y.P.C. have the ability to watch television in the day room, use the patient telephone at any time during 9:00 a.m. and 9:00 p.m. and participate in therapeutic groups in the treatment mall.

241) Although plaintiff may have been physically present for these activities, without the requested accommodations he could not enjoy and participate in the activities and or privileges.

242) On or about March 10, 2006 after repeated complaints of severe tooth pain to psychiatric nurse Robert Henry, Nurse Brian and Nurse Terry, plaintiff was additionally prescribed 500 mg of Naproxin to be given once every ten hours for pain management.

243) On or about Saturday March 18, 2006 plaintiff complained to psychiatric nurse Chris Fullam about severe pain in his right ear, tooth pain on the right side of his mouth and fever symptoms.

244) The nurse took plaintiff's temperature at approximately 8:00 pm, it was 99.6°. Plaintiff was tested again at approximately 10:00 p.m. and it was over a 101°.

245) Plaintiff complained that the 975 mg of Tylenol with the 500 mg of Naproxin was not helping with the pain.

246) On or about March 27, 2006 plaintiff was taken to St. Luke-Faxton Hospital in Utica, N.Y. to see the dentist.

247) Unfortunately all that was done on this visit was X-rays of the wisdom tooth causing plaintiff pain and a follow up appointment for removal of the tooth at an unrevealed date/time.

248) On or about March 27, 2006 plaintiff received a response from Mr. Robert Raymond, ADA Coordinator

For "DOCS". (pp 230)

249) In this letter Mr. Raymond told plaintiff that with regard to him not receiving his hearing aids upon admission to "C.N.Y.P.C." he said "he was advised that your hearing aids and mail were inadvertently returned by the staff that transported you. On 2/22/06 I was told that you have now received them."

250) Plaintiff from March 28, 2006 through April 10, 2006 complained daily of tooth and right ear pain.

251) More specifically on March 30, 2006 plaintiff spoke with the ward psychiatric nurse Robert Henry about his request to see the medical specialist for emergency sick call.

252) Plaintiff told Mr. Henry that the medication previously prescribed for pain management was not working, that he was constantly in severe pain, that it was painful to wear his right hearing aid and to chew.

253) Plaintiff was told that the medical specialist would be told.

254) On or about April 6, 2006 plaintiff met with Ms. Cheryl Myers, Ms. Susan Brennan, and Mr. Steve Montrose. Also present was Ms. Ashley Williams who did not participate in the conversation.

255) Mr. Steve Montrose told plaintiff that he would be discharged back to the Department of Corrections and be placed back at "Wende".

256) Plaintiff informed everyone at the meeting that he was not receiving adequate care for his mental health problems at "Wende". He complained of the Mental Health staff violating his right to confidentiality; That his request to be seen have been either ignored or untimely responded to, and that he faced both discrimination and harassment by the correction officers at "Wende".

257) Ms. Susan Brennan told plaintiff that the "OMH" staff at "C.N.Y.P.C." had no control over where "Docs" placed him, nor did they have any control of other "OMH" staff at the Mental Health Satellite Unit at "Wende".

258) She further told plaintiff that she had spoken

With the clinical team at the Satellite at Wende Correctional Facility and that they were aware of the pending dental consult for his wisdom tooth and that the need for follow up would be included in his discharge summary.

259) On or about April 11, 2006 plaintiff was discharged from "C.N.Y.P.C." and returned to the custody care and control of "NYS D.O.C.S."

260) Upon arrival at Wende Correctional Facility plaintiff was confined in the Mental Health Unit Observation Cell Area.

261) Plaintiff's hearing aids were confiscated by Nurse Lori.

262) Plaintiff was interviewed by a female medical nurse and told her that he was taking 975 mg of tylenol and 500 mg of naproxin.

263) On or about April 20, 2006 plaintiff was discharged from the Mental Health Unit and housed in the Special Housing Unit at "Wende".

264) Plaintiff had yet to receive any dental care.

265) On April 20, 2006 plaintiff wrote to the dental area at "Wende" requesting to be seen because of an impacted wisdom tooth.

266) On or about April 21, 2006 plaintiff wrote Ms. Ann Andzel, Correction Counselor, requesting reasonable accommodations while confined in the Special House Unit.

267) A letter was also sent to Mr. Christopher Zaluski, TMC requesting reasonable accommodations.

268) On April 21, 2006 plaintiff sent a second request to dental at "Wende" requesting to be seen because of severe tooth pain.

269) It is the policy at "Wende" that any requests for dental care whether routine or emergency be made directly to the dental area.

270) On or about April 25, 2006 plaintiff sent a third request to be seen by dental, that he was experiencing severe tooth pain and pain in his right ear.

271) On or about April 28, 2006 plaintiff wrote

to the Nurse Administrator at the Regional Medical Unit for "Wende" telling her that he had requested emergency care from dental and that he was experiencing severe tooth pain, pain in his right ear and having some difficulty chewing.

272) On or about April 28, 2006 plaintiff wrote a 19 page letter of complaint to: Ms. Jayne Van Bramer, Division Director Office of Quality Management New York State Office of Mental Health at 44 Holland Avenue, Albany N.Y.

273) Plaintiff wrote concerning the poor quality or non existent care he was receiving from the Satellite Mental Health Unit at "Wende"; The denial of reasonable accommodations were hospitalized at "C.N.Y.P.C.," the confidentiality violations by "OMH" staff at "Wende" and the denial of adequate medical care for his wisdom tooth while at "~~OMH~~NYPC".

274) On or about May 1, 2006 plaintiff filed a grievance with the Inmate Grievance Resolution Committee at "Wende" requesting that he be seen by dental; that the facility adopt a policy for follow-up of pending consults when returned from "C.N.Y.P.C."

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and that provisions be made for emergency dental care for inmates confined to Special Housing areas when warranted.

275) On or about May 1, 2006 at approximately 10:00 a.m. plaintiff was examined by Dr. William S. Mays, DDS at "Wende".

276) Dr. Mays performed minor oral surgery to remove plaintiff's bottom right wisdom tooth.

277) On or about May 2, 2006 plaintiff wrote to Superintendent Kirkpatrick at "Wende" appealing the tacit denial by Ms. Ann Andzel of plaintiff's request for reasonable accommodations in the Special Housing Unit.

278) On or about May 2, 2006 plaintiff requested to Mr. Steve Jenks from the Mental Health Unit at "Wende" if he could speak with him in the hearing room in private about his mental health care concerns.

279) Mr. Jenks advised plaintiff that he didn't have the time.

280) On or about May 4, 2006 plaintiff verbally requested to Mr. Steve Jenks, Social Worker from "OMH" to be seen by Dr. Christopher M. Detkin, MD.

281) Plaintiff was relayed the message by Mr. Jenks from ~~██████~~ Dr. Christopher Detkin, MD that he would see plaintiff later on in the month.

282) On May 4, 2006 plaintiff wrote a two page letter to Dr. Detkin requesting to be seen because the plaintiff has been feeling depressed, anxious and paranoid. Or in the alternative to be placed back on psychotropic medication until he can be re-evaluated at a later time.

283) Plaintiff also verbally requested to Nurse Lori that she submit an "OMH" referral to see the psychiatrist. The request was made on May 4th, 2006 at approximately 4:15 p.m. during medication pass.

284) The continuous tacit denial of care for plaintiff's mental disability violates plaintiff's right against cruel and unusual punishment.

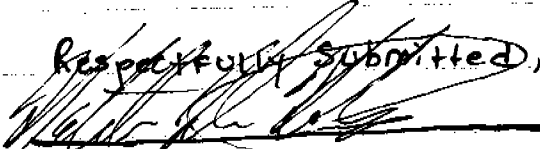
VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

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I, Matthew John Matagrano, being duly sworn, deposes and says that deponent is the pro-se plaintiff in the within action; that deponent has read the foregoing Supplemental Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters deponent believes them to be true.

Dated: May 4th, 2006
Alden, N.Y.

Respectfully submitted,


Matthew J. Matagrano

#04-A-5883

Plaintiff Pro-se

Wende Corr. Facility

3040 Wende Rd. P.O. Box 1187

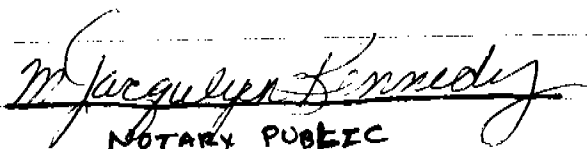
Alden, N.Y. 14004-1187

(716) 937-4000

Sworn to before me this

4th day of May, 2006

M. JACQUELYN KENNEDY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Feb. 9, 2010
2010


NOTARY PUBLIC